S.B. CIVIL MISC. APPEAL NO.547/2007
(Ramphal Vs. Rewantnath & Ors.)

Date of Order :: 8th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Ajay Vyas, for the appellant.

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By way of this appeal, the claimant seeks enhancement over the amount of Rs.11,68,163/- awarded by the Motor Accidents Claims Tribunal, Bikaner in Claim Case No.52/2005 towards compensation for the loss suffered by him due to the injuries sustained in a vehicular accident.

The claimant-appellant suffered grievous injuries on his right arm when the bus bearing registration No.RJ 07 P 1499 he was travelling in capsized near Doongargarh on Jaipur-Bikaner route in the night intervening 11/12th March, 2001. At the relevant time, the injured claimant was 26 years of age and was serving in Army as Lance Nayak earning about Rs.7,500/- per month. The claimant-appellant claimed compensation with the submissions that due to the injuries sustained in the accident, his right arm was required to be amputated below shoulder; that he was removed from military services on 12.11.2001 and could not get retiral benefits for lesser years of service; that if continued in services, he would have retired as Subedar Major/Honorary Captain earning

about Rs.25,000/- per month; that for being removed from services, his entire career was ruined and future darkened. Claim for compensation was contested by the insurer of the vehicle involved in the accident and after framing of necessary issues and taking evidence, the Tribunal held the accident to have occurred for rash and negligent driving of the bus in question that resulted in serious injuries to the appellant leading to amputation of his right arm. For quantification of compensation, the Tribunal referred to the evidence on record and accepted the monthly income of the claimant at Rs.7,500/- i.e. Rs.90,000/- per annum and with reference to the disablement certificate issued by PBM Hospital, Bikaner Ex.14 accepted his disablement at 69% and took loss of future earning at Rs.62,100/- per annum and with application of multiplier of 18 assessed pecuniary loss at Rs.11,17,800/-. The Tribunal noticed the submissions of the claimant about major part of his treatment expenditure having been borne by military hospital and allowed Rs.363/- on the basis of bill Ex.13. The Tribunal further allowed Rs.50,000/- towards pains and sufferings and in this manner awarded total compensation in the sum of Rs.11,68,163/- and after adjustment of the amount of Rs.25,000/- awarded under No Fault Liability, allowed interest at the rate of 7.5% per annum on the remaining amount from the date of filing of claim application.

It has been strenuously contended by the learned counsel for the claimant-appellant that the Tribunal has erred in not taking disablement of the appellant at 80% as established by the certificate issued by the Military Hospital Ex.15 and, therefore, the compensation allowed by the Tribunal has fallen on the lower side. Learned counsel also contended that the Tribunal has not considered future prospects of increments and has erred in taking static figure of last drawn salary only and has also erred in restricting the amount towards pains and sufferings and loss of amenities of life.

Having given a thoughtful consideration to the submissions made by the learned counsel and having examined the award impugned, this Court is satisfied that the ultimate amount awarded by the Tribunal in this case cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

True it is that the claimant has suffered substantial loss in life upon amputation of his right arm above elbow but then, in the circumstances of the case, the Tribunal cannot be faulted in having relied upon the certificate issued by the Government Hospital taking permanent disablement at 69%. The Tribunal has of course taken the figure of last drawn salary only for the purpose of multiplicand but then has

proceeded to apply maximum side multiplier of 18 although with the multiplicand standing at Rs.62,100/- the Tribunal could have considered application of lower multiplier than 18.

It has more or less been an admitted case of the appellant that his entire treatment had been in the Military Hospital and he seems to have not spent any substantial amount on treatment. Of course the non-pecuniary loss awarded by the Tribunal at Rs.50,000/- appears standing on the lower side but in view of the substantial amount allowed towards non-pecuniary loss, the ultimate award as made by the Tribunal cannot be said to be falling short of just compensation admissible in this case and there appears no scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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